



# General Conditions of Recognition

## September 2013

Ofqual/13/5306



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# Introduction

## Foreword

1. Ofqual is the regulator of qualifications (other than degrees), exams and assessments in England, and of vocational qualifications in Northern Ireland. We:
  - secure standards by setting clear requirements for the design, delivery, assessment and award of qualifications, and by intervening when necessary to make sure standards are maintained
  - protect students by making sure they are treated fairly
  - promote efficiency within the qualifications sector
  - use our powers to secure value for money when this is not being delivered.
2. We work collaboratively with fellow qualifications regulators: the Welsh Government in Wales and the Council for the Curriculum, Examinations and Assessment (CCEA), which regulates non-vocational qualifications in Northern Ireland.
3. We recognise awarding organisations to award qualifications. Each awarding organisation we regulate is accountable for the quality and standards of its qualifications and for the efficiency with which it works. Each awarding organisation must have the expertise and other resources to fulfil these requirements. We will check that each awarding organisation is exercising its responsibilities fully and properly, and intervene if we find weaknesses in its approach. We will continue to scrutinise qualifications, where appropriate, to make sure standards are maintained and learners are treated fairly.
4. In all we do, we seek to abide by the five principles of good regulation: proportionality, targeting, accountability, transparency and consistency. This is reflected in the general conditions of recognition that we set out in this document. We also aim to use our powers effectively and efficiently so that public confidence in regulated qualifications is secured.

## About us

5. The Apprenticeships, Skills, Children and Learning Act 2009 (the Act), amended by the Education Act 2011, established us as a regulator of qualifications and assessments. We regulate a range of qualifications (other than degrees) in England, and vocational qualifications in Northern Ireland. We also have duties

to keep under review all aspects of statutory National Curriculum and Early Years Foundation Stage assessments in England.

6. Our aim is to regulate so that we achieve our statutory objectives as set out in the Act.

## **Why and how we regulate**

7. The market alone cannot be relied upon to make sure the standards of comparable qualifications are consistent, students are treated fairly and the fees paid to awarding organisations represent value for money. Even if the market could secure standards, people might not trust those standards without independent assurance. This is why we regulate. The qualifications system should treat learners fairly, and we regulate to protect their interests in particular. We regulate because:
  - users need to be able to make informed choices between qualifications
  - without regulation, users might be tempted to choose qualifications for the wrong reasons (for example because users think they may be easier)
  - without regulation, awarding organisations might be tempted to compromise on quality for commercial reasons
  - external pressures may affect confidence in qualifications
  - the public needs to be assured that standards and rigour are being maintained
  - users need to be assured that the qualifications system is offering value for money to users and taxpayers.
8. Each awarding organisation is subject to conditions of recognition. These are the requirements it has to meet on an ongoing basis. We apply conditions of recognition to all awarding organisations. These are the conditions set out in this document. In addition we can impose conditions of recognition for certain qualifications or descriptions of qualifications and for certain descriptions of awarding organisations. We also have the power to place conditions on any individual awarding organisation.
9. We will require the governing body of each awarding organisation to make a declaration each year confirming whether, or to what extent, the awarding organisation is complying with the conditions of recognition to which it is subject.

## **About this document**

10. We have divided the general conditions of recognition into two parts: part 1 addresses organisational requirements and part 2 addresses the requirements that apply to an organisation as it designs, develops and awards regulated qualifications and units of qualifications.
11. This document has been updated since November 2012 and includes the following new or amended conditions:
  - C2.5 Arrangements with Centres (amendment)
  - D8.1 Making available information to help meet Teachers' needs (new)
  - G4 Maintaining confidentiality of assessment materials, including the conduct of specified training events (amendment)
  - J1.8 Interpretations and definitions (amendment)
12. These new and amended conditions will come into effect at 12.01am on Sunday 1st September 2013.

The headings of each condition can be found below:

A	Part 1 – The awarding organisation
	Governance
<a href="#">A1</a>	<a href="#">Suitability for continuing recognition</a>
<a href="#">A2</a>	<a href="#">Establishment in the EU or the EFTA</a>
<a href="#">A3</a>	<a href="#">Safeguards on change of control</a>
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B	The awarding organisation and Ofqual
<a href="#">B1</a>	<a href="#">The role of the responsible officer</a>
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<a href="#">B6</a>	<a href="#">Cooperation with Ofqual</a>
<a href="#">B7</a>	<a href="#">Compliance with Regulatory Documents</a>
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<b>C</b>	<b>Third parties</b>
<a href="#"><u>C1</u></a>	<a href="#"><u>Arrangements with third parties</u></a>
<a href="#"><u>C2</u></a>	<a href="#"><u>Arrangements with Centres</u></a>

	<b>Part 2 – The regulated qualification</b>
<b>D</b>	<b>General requirements for regulated qualifications</b>
<a href="#"><u>D1</u></a>	<a href="#"><u>Fitness for purpose of qualifications</u></a>
<a href="#"><u>D2</u></a>	<a href="#"><u>Accessibility of qualifications</u></a>
<a href="#"><u>D3</u></a>	<a href="#"><u>Reviewing approach</u></a>
<a href="#"><u>D4</u></a>	<a href="#"><u>Responding to enquiries and complaints procedures</u></a>
<a href="#"><u>D5</u></a>	<a href="#"><u>Compliance of qualifications with Regulatory Documents</u></a>
<a href="#"><u>D6</u></a>	<a href="#"><u>Compliance of units developed by others with Regulatory Documents</u></a>
<a href="#"><u>D7</u></a>	<a href="#"><u>Management of the withdrawal of qualifications</u></a>
<a href="#"><u>D8</u></a>	<a href="#"><u>Making available information to help meet Teachers' needs</u></a>

<b>E</b>	<b>Design and development of qualifications</b>
<a href="#"><u>E1</u></a>	<a href="#"><u>Qualifications having an objective and support</u></a>
<a href="#"><u>E2</u></a>	<a href="#"><u>Requirements on qualification titling</u></a>
<a href="#"><u>E3</u></a>	<a href="#"><u>Publication of a qualification specification</u></a>
<a href="#"><u>E4</u></a>	<a href="#"><u>Ensuring an assessment is fit for purpose and can be delivered</u></a>
<a href="#"><u>E5</u></a>	<a href="#"><u>Assurance that qualifications comply with the conditions</u></a>

<b>F</b>	<b>Providing qualifications to purchasers</b>
<a href="#"><u>F1</u></a>	<a href="#"><u>Information on fees and features of a qualification</u></a>
<a href="#"><u>F2</u></a>	<a href="#"><u>Packaging qualifications with other products or services</u></a>
<a href="#"><u>F3</u></a>	<a href="#"><u>Invoicing</u></a>

<b>G</b>	<b>Setting and delivering the assessment</b>
<a href="#"><u>G1</u></a>	<a href="#"><u>Setting the assessment</u></a>
<a href="#"><u>G2</u></a>	<a href="#"><u>Language of the assessment</u></a>
<a href="#"><u>G3</u></a>	<a href="#"><u>Use of language and Stimulus Materials</u></a>
<a href="#"><u>G4</u></a>	<a href="#"><u>Maintaining confidentiality of assessment materials, including the conduct of specified training events</u></a>
<a href="#"><u>G5</u></a>	<a href="#"><u>Registration of Learners</u></a>
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<a href="#"><u>G7</u></a>	<a href="#"><u>Arrangements for Special Consideration</u></a>
<a href="#"><u>G8</u></a>	<a href="#"><u>Completion of the assessment under the required conditions</u></a>
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<b>H</b>	<b>From marking to issuing results</b>
<a href="#"><u>H1</u></a>	<a href="#"><u>Marking the assessment</u></a>
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<a href="#"><u>H3</u></a>	<a href="#"><u>Monitoring the specified levels of attainment for a qualification</u></a>
<a href="#"><u>H4</u></a>	<a href="#"><u>Adjudication by Ofqual of specified levels of attainment for a qualification</u></a>
<a href="#"><u>H5</u></a>	<a href="#"><u>Results for a qualification must be based on sufficient evidence</u></a>
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<a href="#"><u>I3</u></a>	<a href="#"><u>The design and content of certificates</u></a>
<a href="#"><u>I4</u></a>	<a href="#"><u>Issuing certificates and replacement certificates</u></a>

<b>J</b>	<b>Interpretation and definitions</b>
<a href="#"><u>J1</u></a>	<a href="#"><u>Interpretation and definitions</u></a>

## Part 1

# The awarding organisation

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## **Section A      Governance**

### **Condition A1      Suitability for continuing recognition**

#### **Suitability for continuing recognition**

- A1.1 An awarding organisation must not, by means of any act or omission which has or is likely to have an Adverse Effect, render itself unsuitable to continue to be recognised for the award of a relevant qualification.
- A1.2 For these purposes, an act or omission may include in particular one which results in the awarding organisation –
- (a) being convicted of a criminal offence,
  - (b) being held by a court or any professional, regulatory, or government body to have breached any provision of Competition Law, Equalities Law, or Data Protection Law,
  - (c) being held by a court or any professional, regulatory, or government body to have breached a provision of any other legislation or any regulatory obligation to which it is subject, or
  - (d) becoming insolvent or subject to corporate financial restructuring.

#### **Inactive awarding organisations**

- A1.3 An awarding organisation must:
- (a) ensure that, within two years of first being recognised for the award of qualifications, it has submitted to Ofqual for accreditation or directly to the Register a qualification that meets its Conditions of Recognition, and
  - (b) take all reasonable steps to ensure that, once it has submitted a qualification that meets its Conditions of Recognition, no two-year period passes in which it does not award a qualification in accordance with its Conditions of Recognition.

#### **Ensuring the suitability of Senior Officers**

- A1.4 An awarding organisation must ensure that each of its Senior Officers is at all times a person suitable to be engaged in that role in an awarding organisation that is recognised for the award of the relevant qualifications.
- A1.5 For these purposes, a Senior Officer may in particular be unsuitable for that role by virtue of –

- (a) any criminal convictions held by him or her,
- (b) any finding by a court or any professional, regulatory, or government body that he or she has breached a provision of any legislation or any regulatory obligation to which he or she is subject,
- (c) any proceedings in bankruptcy or any individual financial arrangement to which he or she is or has been subject,
- (d) any disqualification from holding the directorship of a company or from public office, or
- (e) any finding of malpractice or maladministration, in relation to a qualification (whether a regulated qualification or a qualification which is not regulated), to which he or she is or has been subject.

**Condition A2      Establishment in the EU or the EFTA**

A2.1 An awarding organisation must ensure that it at all times –

- (a) is ordinarily resident in a member state of the European Union or the European Free Trade Association, or
- (b) is legally established, or has a substantial presence, in a member state of the European Union or the European Free Trade Association.

## **Condition A3      Safeguards on change of control**

### **Duty on change of control**

A3.1 Where there is a change of control in relation to an awarding organisation, it must –

- (a) take (and procure that every other relevant person takes) all reasonable steps to ensure that the change of control does not have an Adverse Effect, and
- (b) put in place a plan designed to ensure that the interests of Learners will be protected.

### **Definition of change of control**

A3.2 For the purposes of this condition, a change of control takes place in relation to an awarding organisation where –

- (a) a person obtains control of the awarding organisation who did not, immediately prior to doing so, have control of it, or
- (b) the awarding organisation merges with any person.

A3.3 Where the awarding organisation is a company, sub-sections (2), (3) and (4) of section 450 of the Corporation Tax Act 2010 shall apply for the purpose of determining whether a person has or had control of the awarding organisation.

## **Condition A4 Conflicts of interest**

### **Definition of conflict of interest**

A4.1 For the purposes of this condition, a conflict of interest exists in relation to an awarding organisation where –

- (a) its interests in any activity undertaken by it, on its behalf, or by a member of its Group have the potential to lead it to act contrary to its interests in the development, delivery and award of qualifications in accordance with its Conditions of Recognition,
- (b) a person who is connected to the development, delivery or award of qualifications by the awarding organisation has interests in any other activity which have the potential to lead that person to act contrary to his or her interests in that development, delivery or award in accordance with the awarding organisation's Conditions of Recognition, or
- (c) an informed and reasonable observer would conclude that either of these situations was the case.

### **Identifying conflicts of interest**

A4.2 An awarding organisation must identify and monitor –

- (a) all conflicts of interest which relate to it, and
- (b) any scenario in which it is reasonably foreseeable that any such conflict of interest will arise in the future.

### **Managing conflicts of interest**

A4.3 An awarding organisation must take all reasonable steps to ensure that no conflict of interest which relates to it has an Adverse Effect.

A4.4 Where such a conflict of interest has had an Adverse Effect, the awarding organisation must take all reasonable steps to mitigate the Adverse Effect as far as possible and correct it.

### **Interests in assessment**

A4.5 An awarding organisation must take all reasonable steps to avoid any part of the assessment of a Learner (including by way of Moderation) being undertaken by any person who has a personal interest in the result of the assessment.

A4.6 Where, having taken all such reasonable steps, an assessment by such a person cannot be avoided, the awarding organisation must make

arrangements for the relevant part of the assessment to be subject to scrutiny by another person.

**The written conflict of interest policy**

- A4.7 An awarding organisation must establish, maintain, and at all times comply with an up to date written conflict of interest policy, which must include procedures on how the awarding organisation intends to comply with the requirements of this condition.
- A4.8 When requested to do so by Ofqual in writing, an awarding organisation must promptly submit to Ofqual its conflict of interest policy, and must subsequently ensure that the policy complies with any requirements which Ofqual has communicated to it in writing.



## **Condition A5      Availability of adequate resources and arrangements**

### **Ensuring the ability to develop, deliver and award qualifications**

A5.1 An awarding organisation must –

- (a) ensure that it has the capacity to undertake the development, delivery and award of qualifications which it makes available, or proposes to make available, in accordance with its Conditions of Recognition, and
- (b) take all reasonable steps to ensure that it undertakes the development, delivery and award of those qualifications efficiently.

A5.2 For these purposes, an awarding organisation must establish and maintain –

- (a) arrangements which will ensure that it retains at all times a Workforce of appropriate size and competence,
- (b) arrangements for the retention of data which will ensure that adequate information is available to it at all times,
- (c) arrangements which will ensure that sufficient technical equipment and support is available to it at all times,
- (d) appropriate management resources, and
- (e) appropriate systems of planning and internal control.

A5.3 For these purposes, an awarding organisation must also –

- (a) regularly review its ongoing resource requirements and make appropriate changes to take into account the findings of each review, and
- (b) adequately plan any new developments which it proposes to introduce, and allocate sufficient resources to ensure that such developments are effectively introduced.

### **Ensuring financial viability**

A5.4 An awarding organisation must ensure that it will have available sufficient financial resources and facilities to enable it to develop, deliver and award qualifications in accordance with its Conditions of Recognition until at least the time by which every Learner for a qualification it makes available has had the opportunity to complete that qualification.

## **Condition A6      Identification and management of risks**

### **Identifying risks**

A6.1 An awarding organisation must take all reasonable steps to identify the risk of the occurrence of any incident which could have an Adverse Effect.

### **Preventing incidents or mitigating their effect**

A6.2 Where such a risk is identified, the awarding organisation must take all reasonable steps to –

- (a) prevent the incident from occurring or, where it cannot be prevented, reduce the risk of that incident occurring as far as is possible, and
- (b) prevent any Adverse Effect that the incident could have were it to occur or, where it cannot be prevented, mitigate that Adverse Effect as far as possible.

### **Contingency plan**

A6.3 An awarding organisation must establish and maintain, and at all times comply with, an up to date written contingency plan.

A6.4 A contingency plan must be of sufficient detail and quality to allow the awarding organisation to mitigate, as far as possible, the Adverse Effect of any incident which has been identified by the awarding organisation as having a risk of occurring.

## **Condition A7      Management of incidents**

- A7.1 Where any incident occurs which could have an Adverse Effect, an awarding organisation must (whether or not it has previously identified a risk of that incident occurring) promptly take all reasonable steps to –
- (a) prevent the Adverse Effect and, where any Adverse Effect occurs, mitigate it as far as possible and correct it, and
  - (b) give priority to the provision of assessments which accurately differentiate between Learners on the basis of the level of attainment they have demonstrated and to the accurate and timely award of qualifications.

## **Condition A8 Malpractice and maladministration**

### **Preventing malpractice and maladministration**

- A8.1 An awarding organisation must take all reasonable steps to prevent the occurrence of any malpractice or maladministration in the development, delivery and award of qualifications which it makes available or proposes to make available.

### **Investigating and managing the effect of malpractice and maladministration**

- A8.2 Where any such malpractice or maladministration is suspected by an awarding organisation or alleged by any other person, and where there are reasonable grounds for that suspicion or allegation, the awarding organisation must –
- (a) so far as possible, establish whether or not the malpractice or maladministration has occurred, and
  - (b) promptly take all reasonable steps to prevent any Adverse Effect to which it may give rise and, where any such Adverse Effect occurs, mitigate it as far as possible and correct it.

### **Procedures relating to malpractice and maladministration**

- A8.3 For the purposes of this condition, an awarding organisation must –
- (a) establish and maintain, and at all times comply with, up to date written procedures for the investigation of suspected or alleged malpractice or maladministration, and
  - (b) ensure that such investigations are carried out rigorously, effectively, and by persons of appropriate competence who have no personal interest in their outcome.
- A8.4 Where a Centre undertakes any part of the delivery of a qualification which an awarding organisation makes available, the awarding organisation must take all reasonable steps to keep under review the arrangements put in place by that Centre for preventing and investigating malpractice and maladministration.
- A8.5 An awarding organisation must, following a request from such a Centre, provide guidance to the Centre as to how best to prevent, investigate, and deal with malpractice and maladministration.

### **Dealing with malpractice and maladministration**

- A8.6 Where an awarding organisation establishes that any malpractice or maladministration has occurred in the development, delivery or award of

qualifications which it makes available, or proposes to make available, it must promptly take all reasonable steps to –

- (a) prevent that malpractice or maladministration from recurring, and
- (b) take action against those responsible which is proportionate to the gravity and scope of the occurrence, or seek the cooperation of third parties in taking such action.

A8.7 Where an awarding organisation has any cause to believe that an occurrence of malpractice or maladministration, or any connected occurrence –

- (a) may affect a Centre undertaking any part of the delivery of a qualification which an awarding organisation makes available, it must inform that Centre, and
- (b) may affect another awarding organisation, it must inform that awarding organisation.

## **Section B      The awarding organisation and Ofqual**

### **Condition B1      The role of the responsible officer**

#### **Appointing a responsible officer**

- B1.1 An awarding organisation must ensure that an individual is at all times appointed to act as its responsible officer.
- B1.2 The awarding organisation must ensure that Ofqual is informed in writing of the name of the person from time to time appointed as its responsible officer.

#### **The role of the responsible officer**

- B1.3 An awarding organisation must ensure that its responsible officer serves as the authoritative point of contact for Ofqual in relation to all activities undertaken by the awarding organisation which are of interest to Ofqual in accordance with the Act, including in particular –
- (a) any matters relating to its compliance with its Conditions of Recognition,
  - (b) its ability to undertake the efficient development, delivery and award of qualifications,
  - (c) the standards of qualifications that it makes available or proposes to make available,
  - (d) any matters which may affect public confidence in qualifications, and
  - (e) the accessibility of qualifications it makes available, including its compliance with Equalities Law.
- B1.4 An awarding organisation must ensure that, where –
- (a) its responsible officer makes a statement to Ofqual (other than one which is required to be made by the Governing Body), Ofqual will be entitled to rely on that statement as being accurate and made on behalf of the awarding organisation, and
  - (b) Ofqual gives to its responsible officer a statement, request, or notice addressed to the awarding organisation, Ofqual will be entitled to treat that statement, request, or notice as having been given to the awarding organisation.

## **Condition B2     The annual statement to Ofqual**

- B2.1 An awarding organisation must provide to Ofqual an annual statement in accordance with this condition.
- B2.2 The statement must specify either –
- (a) that the awarding organisation is fully compliant with its Conditions of Recognition at the date of the statement, or
  - (b) that it is not so compliant, in which case the statement must describe each instance of non-compliance and the date by which the awarding organisation expects to rectify the failure.
- B2.3 The statement must also specify either –
- (a) that the awarding organisation has no cause to believe that it will be likely to fail to comply with any of its Conditions of Recognition during the period of twelve months immediately following the date of the statement, or
  - (b) that it does have such a cause for belief, in which case the statement must describe each instance of potential non-compliance, the grounds for believing it to be likely to occur, and the steps being taken by the awarding organisation in relation to it.
- B2.4 The statement must be accurate, formally approved by the Governing Body of the awarding organisation, and signed by the chair of the Governing Body and the responsible officer.
- B2.5 The statement must be made in any form and on any date as may be notified to the awarding organisation by Ofqual.

## **Condition B3      Notification to Ofqual of certain events**

### **Notification where an event could have an Adverse Effect**

B3.1 An awarding organisation must promptly notify Ofqual when it has cause to believe that any event has occurred or is likely to occur which could have an Adverse Effect.

### **Specific examples of events which could have an Adverse Effect**

B3.2 For the purposes of this condition, such events may in particular include those where –

- (a) there is a substantial error in the awarding organisation's assessment materials,
- (b) there has been a loss or theft of, or a breach of confidentiality in, any assessment materials,
- (c) the awarding organisation cannot supply assessment materials for a scheduled assessment date,
- (d) there has been a failure in the delivery of an assessment which threatens Assessors' ability to differentiate accurately and consistently between the levels of attainment demonstrated by Learners,
- (e) the awarding organisation will be unable to meet a published date for the issue of results or the award of a qualification,
- (f) the awarding organisation has issued incorrect results or certificates,
- (g) the awarding organisation believes that there has been an incident of malpractice or maladministration, which could either invalidate the award of a qualification which it makes available or could affect another awarding organisation,
- (h) the awarding organisation has (for any reason, whether inside or outside its control) incurred an increase in costs which it anticipates will result in an increase in its fees of significantly more than the rate of inflation,
- (i) the awarding organisation is named as a party in any criminal or civil proceedings or is subjected to a regulatory investigation or sanction by any professional, regulatory, or government body, or
- (j) a Senior Officer of the awarding organisation is a party to criminal proceedings (other than minor driving offences), is subject to any action for disqualification as a company director, or is subject to disciplinary proceedings by any professional, regulatory, or government body.



**Notification of specified events in all cases**

B3.3 An awarding organisation must promptly notify Ofqual if it is, or if it has cause to believe that it is likely to be, subject to –

- (a) a material change in its governance structure or legal status,
- (b) a change of control,
- (c) a merger between it and another body, or
- (d) any insolvency or bankruptcy proceedings.

B3.4 An awarding organisation must promptly notify Ofqual if it proposes to make available a qualification which is substantially different in type or content to any which it has previously made available.

**Further requirements on the timing of notifications**

B3.5 When it notifies Ofqual of an event in accordance with this condition, or as soon as possible afterward, an awarding organisation must also notify Ofqual of any steps that it has taken or intends to take to prevent the event having an Adverse Effect or to correct or mitigate that Adverse Effect if it occurs.

B3.6 An awarding organisation must not delay making a notification to Ofqual in accordance with this condition because relevant information is unavailable, but must notify based on all the information that it has and provide further information to Ofqual once it becomes available.

## **Condition B4      Notice to provide information to Ofqual**

- B4.1 Where Ofqual serves a written notice on an awarding organisation requiring the awarding organisation to provide it with any information that it seeks for the purpose of performing its functions, the awarding organisation must comply with the terms of that notice.
- B4.2 For these purposes a notice given by Ofqual may –
- (a) specify the time within which the information is to be provided,
  - (b) specify a form in which the information is to be provided,
  - (c) require that the information is accompanied by such supporting documents or data as may be described, and
  - (d) require an awarding organisation to provide information whether that information is already in its possession or has to be created or obtained by it.
- B4.3 An awarding organisation must ensure that all information provided to Ofqual in accordance with this condition is accurate and complete.

## **Condition B5      Representations regarding qualifications**

### **Statements regarding qualifications which are not regulated qualifications**

- B5.1 An awarding organisation must not (and must take all reasonable steps to ensure that any person connected with it does not) make any statement that would be likely to lead Users of qualifications to believe that a qualification it makes available is a regulated qualification when it is not a regulated qualification.

### **Advertising and promotion of qualifications**

- B5.2 An awarding organisation must not (and must take all reasonable steps to ensure that any person connected with it does not) advertise or promote its qualifications in a manner that is likely to be misleading to Users of qualifications.

### **Use of Ofqual's Logo**

- B5.3 An awarding organisation must ensure that its use of Ofqual's Logo complies with Logo Requirements and Certificate Requirements which may be published by Ofqual and revised from time to time.

**Condition B6      Cooperation with Ofqual**

- B6.1 An awarding organisation must provide Ofqual with all such assistance as it may request for the purpose of undertaking, in accordance with its functions, an investigation into, or other monitoring in relation to, the activities of that awarding organisation.

## **Condition B7      Compliance with Regulatory Documents**

- B7.1 Where a Regulatory Document requires an awarding organisation to take or to refrain from taking any action, the awarding organisation must comply with that requirement.
- B7.2 Where a Regulatory Document sets out guidelines or principles of good practice in relation to any behaviour on the part of an awarding organisation, the awarding organisation must have regard to those guidelines or principles before it engages in that behaviour.

**Condition B8      Compliance with undertakings given to Ofqual**

- B8.1 An awarding organisation must comply with the requirements of any relevant undertaking.
- B8.2 For the purposes of this condition, a relevant undertaking is an undertaking which –
- (a) has been given to Ofqual by the awarding organisation,
  - (b) is in writing, and
  - (c) states that it is an undertaking given in accordance with this condition.

## **Section C      Third parties**

### **Condition C1      Arrangements with third parties**

- C1.1 Where an awarding organisation arranges for a third party to undertake, on its behalf, any part of the development, delivery or award of qualifications which the awarding organisation makes available, or proposes to make available, the awarding organisation must –
- (a) ensure that the arrangements which it establishes with that third party enable the awarding organisation to develop, deliver and award qualifications in accordance with its Conditions of Recognition, and
  - (b) monitor and, where appropriate, enforce such arrangements so as to ensure that it is able to develop, deliver and award qualifications in accordance with its Conditions of Recognition.
- C1.2 An awarding organisation must take all reasonable steps to ensure that, in making any such arrangements, it does not impose unnecessary or unduly burdensome requirements on third parties.

## **Condition C2      Arrangements with Centres**

- C2.1 Where a Centre undertakes any part of the delivery of a qualification on behalf of an awarding organisation, this condition applies in addition to the requirements in Condition C1.
- C2.2 Where this condition applies, an awarding organisation must ensure that arrangements between it and the Centre include a written and enforceable agreement.
- C2.3 That agreement must in particular include provisions which –
- (a) require the Centre to take all reasonable steps to ensure that the awarding organisation is able to comply with its Conditions of Recognition,
  - (b) require the Centre to take all reasonable steps to comply with requests for information or documents made by the awarding organisation or Ofqual as soon as practicable,
  - (c) require the Centre to assist the awarding organisation in carrying out any reasonable monitoring activities and to assist Ofqual in any investigations made for the purposes of performing its functions,
  - (d) set out all the requirements with which the Centre must comply in order to continue to deliver the qualification,
  - (e) establish a sanctions policy to be applied in the event that the Centre fails to comply with these requirements,
  - (f) require the Centre to retain a Workforce of appropriate size and competence to undertake the delivery of the qualification as required by the awarding organisation,
  - (g) require the Centre to have available sufficient managerial and other resources to enable it effectively and efficiently to undertake the delivery of the qualification as required by the awarding organisation,
  - (h) require the Centre to undertake the delivery of the qualification required by the awarding organisation in accordance with Equalities Law,
  - (i) require the Centre to operate a complaints handling procedure or appeals process for the benefit of Learners,
  - (j) set out any Moderation processes that the awarding organisation will undertake or that will be undertaken on its behalf,



- (k) specify a process to be followed in any withdrawal of the Centre (whether voluntary or not) from its role in delivering a qualification, and
- (l) require the Centre to take all reasonable steps to protect the interests of Learners in the case of such a withdrawal.

C2.4 In the event that the Centre withdraws from its role in delivering a qualification, the awarding organisation must take all reasonable steps to protect the interests of Learners.

C2.5 The awarding organisation must, in respect of the parts of the delivery of qualifications which the Centre undertakes:

- (a) provide effective guidance to the Centre, and
- (b) make available to the Centre any information which, for the purposes of that delivery, the Centre may reasonably require to be provided by the awarding organisation.

## Part 2

# The regulated qualification

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## **Section D      General requirements for regulated qualifications**

### **Condition D1      Fitness for purpose of qualifications**

- D1.1 An awarding organisation must ensure that each qualification which it makes available is fit for purpose.
- D1.2 A qualification will only be fit for purpose if that qualification, as far as possible, secures the requirements of –
- (a) Validity,
  - (b) Reliability,
  - (c) Comparability,
  - (d) Manageability, and
  - (e) Minimising Bias.
- D1.3 In any case where there is a conflict between two or more of these requirements, an awarding organisation must secure that it achieves a balance between those requirements that –
- (a) ensures its compliance with its Conditions of Recognition, and
  - (b) is objectively the optimum balance in relation to the particular qualification.

## **Condition D2      Accessibility of qualifications**

- D2.1 An awarding organisation must ensure that it complies with the requirements of Equalities Law in relation to each of the qualifications which it makes available.
- D2.2 An awarding organisation must monitor qualifications which it makes available for any feature which could disadvantage a group of Learners who share a particular Characteristic.
- D2.3 Where an awarding organisation has identified such a feature, it must –
- (a) remove any disadvantage which is unjustifiable, and
  - (b) maintain a record of any disadvantage which it believes to be justifiable, setting out the reasons why in its opinion the disadvantage is justifiable.

## **Condition D3     Reviewing approach**

### **Review of approach**

D3.1 An awarding organisation must keep under review, and must enhance where necessary, its approach to the development, delivery and award of qualifications, so as to assure itself that its approach remains at all times appropriate.

### **Evidence to inform approach**

D3.2 An awarding organisation must –

- (a) have due regard to all information, comments and complaints received from Users of qualifications in relation to the development, delivery and award of qualifications, and
- (b) identify and give due regard to any credible evidence which suggests that a change in its approach to the development, delivery and award of qualifications is required in order to ensure that the approach remains appropriate.

D3.3 Where an event relating to an awarding organisation (or an event, of which it is or should be aware, relating to any other awarding organisation) has had an Adverse Effect, the awarding organisation must review and revise where necessary its approach to the development, delivery and award of qualifications to ensure that its approach remains appropriate.

## **Condition D4      Responding to enquiries and complaints procedures**

### **Responding to enquiries from Users of qualifications**

- D4.1 An awarding organisation must answer accurately, fully and within a reasonable time any reasonable enquiries received by it from Users of qualifications.
- D4.2 Nothing in this condition obliges an awarding organisation to disclose information if to do so would breach a duty of confidentiality or any other legal duty.

### **Complaints procedures**

- D4.3 An awarding organisation must establish, maintain, publish and at all times comply with a written complaints procedure.
- D4.4 The complaints procedure must in particular include procedures and timescales for –
- (a) responding to complaints, and
  - (b) dealing with the subject matter of complaints.

**Condition D5      Compliance of qualifications with Regulatory Documents**

- D5.1 An awarding organisation must ensure that any qualification which it makes available, or proposes to make available, complies with any requirement relating to that qualification which is set out in a Regulatory Document.
- D5.2 An awarding organisation must ensure that in the development, delivery and award of any qualification which it makes available, or proposes to make available, it has regard to any guidelines and principles of good practice relating to that qualification which are set out in a Regulatory Document.

**Condition D6      Compliance of units developed by others with  
Regulatory Documents**

D6.1 An awarding organisation may only make available a qualification which uses a unit or Rule of Combination developed by another person where it reasonably believes that –

- (a) the unit or Rule of Combination complies with the requirements relating to it that are set out in any Regulatory Document, and
- (b) in the development of the unit or Rule of Combination, due regard has been had to the guidelines and principles of good practice set out in any Regulatory Document.



## **Condition D7      Management of the withdrawal of qualifications**

- D7.1 For the purposes of this condition, an awarding organisation withdraws a qualification at the point in time when it first –
- (a) ceases to register Learners for the qualification,
  - (b) ceases to deliver or award that qualification to Learners,
  - (c) surrenders its recognition in respect of that qualification, or
  - (d) has its recognition withdrawn by Ofqual in respect of that qualification.
- D7.2 Where an awarding organisation intends to withdraw, otherwise believes it to be likely that it will withdraw, or is obliged to withdraw, a qualification, it must take all reasonable steps to protect the interests of Learners in relation to that qualification.
- D7.3 An awarding organisation must give to Ofqual reasonable notice of its anticipated withdrawal of a qualification, and must do so prior to the time at which it provides that information to any Learners, Centres, or purchasers of qualifications.
- D7.4 Where an awarding organisation intends to withdraw, or is obliged to withdraw, a qualification, it must –
- (a) promptly prepare, maintain, and comply with a written withdrawal plan, which must specify how the interests of Learners in relation to that qualification will be protected, and
  - (b) provide clear and accurate information about the withdrawal to Learners, Centres, and purchasers of qualifications who are likely to be affected by the withdrawal.
- D7.5 An awarding organisation must ensure that any withdrawal plan which it prepares complies with any requirements which Ofqual has communicated to it in writing.

**Condition D8      Making available information to help meet  
Teachers' needs**

- D8.1 In respect of each qualification which it makes available, an awarding organisation must ensure that there is available to each Teacher any information which, for the purpose of preparing Learners and persons likely to become Learners for assessments for that qualification, the Teacher may reasonably require to be provided by the awarding organisation.

## **Section E      Design and development of qualifications**

### **Condition E1      Qualifications having an objective and support**

#### **Qualifications to have an objective**

- E1.1 An awarding organisation must ensure that each qualification which it makes available or proposes to make available –
- (a) has a clear objective in accordance with this condition, and
  - (b) meets that objective.
- E1.2 The objective of a qualification must be such as to lead to a benefit for Learners who have reached a specified level of attainment, and may include –
- (a) preparing Learners to progress to a qualification in the same subject area but at a higher level or requiring more specific knowledge, skills and understanding,
  - (b) preparing Learners to progress to a qualification in another subject area,
  - (c) meeting relevant programmes of learning,
  - (d) preparing Learners for employment,
  - (e) supporting a role in the workplace, or
  - (f) giving Learners personal growth and engagement in learning.

#### **Qualifications to have support**

- E1.3 Where an awarding organisation proposes to make available any new qualification, it –
- (a) must first consult Users of qualifications to ascertain whether there is support for the qualification, and
  - (b) may only make available the qualification where it has evidence of sufficient support from Users of qualifications.
- E1.4 For these purposes, the following considerations will in particular be relevant in determining what constitutes sufficient support –
- (a) the objective of the new qualification,

- (b) whether the new qualification is intended to facilitate a particular route of progression for Learners, and
- (c) the number of Learners that the awarding organisation reasonably estimates is likely to take the new qualification.

E1.5 For the purposes of this condition, Users of qualifications will be deemed to support a new qualification if the prevailing view of those Users of qualifications is that the qualification would provide a benefit to Learners.

## **Condition E2      Requirements on qualification titling**

- E2.1 An awarding organisation must ensure that the title on the Register of any qualification which it makes available includes the following information –
- (a) the name of the awarding organisation,
  - (b) the level of the qualification,
  - (c) the type of qualification (where the qualification has a type),
  - (d) a concise indication of the content of the qualification, and
  - (e) any Endorsement known at the time the qualification is submitted to the Register.
- E2.2 An awarding organisation must, in addition –
- (a) ensure that the title on the Register reflects the knowledge, skills and understanding which will be assessed as part of the qualification, and
  - (b) take all reasonable steps to ensure that the title allows Users of qualifications to identify similar units or qualifications which it makes available or are made available by other awarding organisations.
- E2.3 An awarding organisation must ensure that each qualification which it makes available, or proposes to make available, has a title which it uses consistently in its advertising and in its communications with Users of qualifications.
- E2.4 An awarding organisation must ensure that the titles of qualifications which it makes available, or proposes to make available, are not misleading to Users of qualifications.

### **Condition E3      Publication of a qualification specification**

- E3.1 An awarding organisation must, before first making available a particular qualification, publish a specification for that qualification.
- E3.2 An awarding organisation must ensure that the specification for a qualification sets out –
- (a) the qualification's objective,
  - (b) any other qualification which a Learner must have completed before taking the qualification,
  - (c) any prior knowledge, skills or understanding which the Learner is required to have before taking the qualification,
  - (d) units which a Learner must have completed before the qualification will be awarded and any optional routes,
  - (e) any other requirements which a Learner must have satisfied before the Learner will be assessed or before the qualification will be awarded,
  - (f) the knowledge, skills and understanding which will be assessed as part of the qualification (giving a clear indication of their coverage and depth),
  - (g) the method of any assessment and any associated requirements relating to it,
  - (h) the criteria against which Learners' levels of attainment will be measured (such as assessment criteria or exemplars),
  - (i) any specimen assessment materials, and
  - (j) any specified levels of attainment.
- E3.3 An awarding organisation must ensure that the specification for a qualification is clear, accurate and communicates, to the reasonable and informed person –
- (a) what the qualification requires of the Learner in respect of each of the details that is applicable to the qualification, and
  - (b) how the qualification is fit for purpose.

**Condition E4      Ensuring an assessment is fit for purpose and can be delivered**

- E4.1 In designing an assessment for a qualification which it makes available, or proposes to make available, an awarding organisation must ensure that it has or obtains adequate resources to enable the assessment to be delivered effectively and efficiently.
- E4.2 In designing such an assessment, an awarding organisation must in addition ensure that the assessment –
- (a) is fit for purpose,
  - (b) can be delivered efficiently,
  - (c) allows Centres to develop cost effective arrangements for its delivery, using only the resources which would be reasonably expected to be required or which are provided by the awarding organisation,
  - (d) permits Reasonable Adjustments to be made, while minimising the need for them,
  - (e) allows each Learner to generate evidence which can be Authenticated,
  - (f) allows each specified level of attainment detailed in the specification to be reached by a Learner who has attained the required level of knowledge, skills and understanding, and
  - (g) allows Assessors to be able to differentiate accurately and consistently between a range of attainments by Learners.

**Condition E5      Assurance that qualifications comply with the conditions**

- E5.1 Before submitting a qualification to the Register or for accreditation, an awarding organisation must –
- (a) review that qualification, and
  - (b) assure itself that the qualification complies with the requirements of its Conditions of Recognition, making any changes to the qualification which are necessary for that purpose.



## **Section F      Providing qualifications to purchasers**

### **Condition F1      Information on fees and features of a qualification**

#### **Making fee information available**

- F1.1 Where an awarding organisation produces a list of standard fees for the qualifications which it makes available and for any associated services, it must ensure that the list is accessible to potential purchasers, at least by means of –
- (a) making the list available on the internet, in particular by means of a hyperlink to it that is placed on the Register, or
  - (b) providing potential purchasers with a copy of the list.
- F1.2 Where an awarding organisation does not produce such a list, it must, on request, provide to a potential purchaser –
- (a) information as to its fees for those qualifications and services, or
  - (b) if it is not possible to determine those fees exactly, a statement of the method by which its fees are calculated or a reasonably detailed estimate of the price that he or she would have to pay.
- F1.3 An awarding organisation must ensure that in each case it has in place pricing structures that would be clear to the reasonable purchaser.
- F1.4 Where an awarding organisation provides or makes available any information as to its fees or the method by which they are calculated, it must at the same time provide or make available information as to the main features of the qualifications and associated services to which the fees relate, unless this is already clear from the context.

#### **Making fee information available to satisfy the planning requirements of purchasers**

- F1.5 Where an awarding organisation provides or makes available any information as to its fees or the method by which they are calculated, it must take all reasonable steps to do so sufficiently far in advance of the time at which the qualifications to which those fees relate will be made available to Learners as to satisfy the reasonable planning requirements of potential purchasers.
- F1.6 Where such information cannot be provided or made available to this timescale, the awarding organisation must instead provide or make available to potential purchasers information that is sufficient to give a reasonable

indication of its likely fees, together with a clear statement to make potential purchasers aware that this information is only indicative.

## **Condition F2      Packaging qualifications with other products or services**

### **Packages offered as an option**

F2.1 Where an awarding organisation makes available a qualification both in a package with other products or services and separately from those other products or services, it must inform purchasers prior to the time of purchase that the qualification may be purchased separately or in a package.

### **Packages offered without alternative options**

F2.2 An awarding organisation must not make available a qualification in a package together with other products or services unless it also makes available that qualification without other products or services, except where it –

- (a) from time to time seeks comments from purchasers on whether the packaging of the qualification with the particular products or services is appropriate, and
- (b) reasonably concludes that continuing to make available the package is appropriate.

## **Condition F3      Invoicing**

### **Invoicing purchasers**

F3.1 An awarding organisation must –

- (a) ensure that its invoices in relation to the provision of qualifications are issued in a timely manner, and
- (b) provide a breakdown of its fees to a reasonable level of detail following a request from a purchaser.

### **The written invoicing policy**

F3.2 An awarding organisation must establish, maintain, publish and comply with a written policy on invoicing.

F3.3 The policy must specify the processes to be followed by the awarding organisation in relation to the issue, payment and retention of invoices and the content of invoices.

## **Section G      Setting and delivering the assessment**

### **Condition G1      Setting the assessment**

- G1.1 In setting an assessment for a qualification which it makes available, an awarding organisation must ensure that the content of the assessment is –
- (a) fit for purpose,
  - (b) appropriate for the method of assessment chosen, and
  - (c) consistent with the specification for that qualification.
- G1.2 An awarding organisation must take all reasonable steps to ensure that the Level of Demand of an assessment for a qualification which it makes available is consistent –
- (a) across all options as to tasks which may be completed by a Learner for the purposes of the assessment,
  - (b) with the Level of Demand of any other assessment which may be completed by a Learner, as an alternative to the assessment, for the purpose of the qualification, and
  - (c) with the Level of Demand of previous assessments and of any specimen assessment materials which the awarding organisation has published in relation to the qualification.
- G1.3 An awarding organisation must produce a written document in relation to an assessment which sets out clear and unambiguous criteria against which Learners' levels of attainment will be differentiated.

## **Condition G2      Language of the assessment**

G2.1 An awarding organisation must ensure that all Learners taking its qualifications are assessed in –

- (a) English in England, and
- (b) English or Irish in Northern Ireland,

except to the extent that the use of another language is permitted by this condition.

G2.2 A Learner taking a qualification may be assessed in British Sign Language or Irish Sign Language where it is permitted by an awarding organisation for the purpose of Reasonable Adjustment.

G2.3 A Learner taking a qualification may be assessed in any other language where it is one of the primary objectives of the qualification –

- (a) for the Learner to gain knowledge of, skills in, and understanding of that language, or
- (b) to support a role in the workplace, providing that proficiency in English or Irish is not required for the role supported by the qualification.

G2.4 Where an awarding organisation makes available a qualification in more than one language, the awarding organisation must take all reasonable steps to ensure that assessments in different languages ensure a consistent Level of Demand for Learners.

### **Condition G3      Use of language and Stimulus Materials**

- G3.1 An awarding organisation must ensure that assessments for qualifications which it makes available use only appropriate language and Stimulus Materials.
- G3.2 Language and Stimulus Materials are only appropriate if they –
- (a) enable Learners to demonstrate their level of attainment,
  - (b) require knowledge, skills and understanding which are required for the qualification,
  - (c) are clear and unambiguous (unless ambiguity forms part of the assessment), and
  - (d) are not likely to cause unnecessary offence to Learners.
- G3.3 In considering whether language and Stimulus Materials for an assessment are appropriate, an awarding organisation must take into account in particular –
- (a) the age of Learners who may reasonably be expected to take the qualification,
  - (b) the level of the qualification,
  - (c) the objective of the qualification, and
  - (d) the knowledge, skills and understanding assessed for the qualification.
- G3.4 An awarding organisation must take all reasonable steps to ensure that no assessment for a qualification which it makes available contains language or Stimulus Materials which could lead a group of Learners who share a common attribute or circumstance to experience – because of that attribute or circumstance – an unreasonable disadvantage in the level of attainment that they are able to demonstrate in the assessment.

**Condition G4      Maintaining confidentiality of assessment materials, including the conduct of specified training events**

G4.1 Where confidentiality in –

- (a) the contents of assessment materials, or
- (b) information about the assessment,

is required in order to ensure that a qualification which an awarding organisation makes available, or proposes to make available, reflects an accurate measure of attainment, the awarding organisation must take all reasonable steps to ensure that such confidentiality is maintained.

G4.2 In particular, an awarding organisation –

- (a) must take all reasonable steps to ensure that such confidentiality is maintained where it (or any person connected or previously connected to it) provides training or training materials in relation to such a qualification,
- (b) must not provide or endorse any prohibited training, and
- (c) must take all reasonable steps to ensure that any person connected or previously connected to it does not provide or endorse any prohibited training.

G4.3 For the purposes of this Condition, ‘prohibited training’ is training:

- (a) provided to Teachers in relation to such a qualification,
- (b) at which a number of persons are present (whether physically or remotely by means of simultaneous electronic communication),
- (c) where any one of those persons holds information in relation to the content of assessment materials or information about the assessment for that qualification, and
- (d) where disclosure of the information to Teachers would breach such confidentiality.

G4.4 An awarding organisation must, in respect of any training it provides to Teachers in relation to such a qualification (and, in relation to any such training provided by any person connected to it, must take all reasonable steps to) –



- (a) ensure that the training is reasonably available to all Teachers preparing Learners, or persons likely to become Learners, for assessments for that qualification,
- (b) advertise to Teachers the availability of the training, including in particular by publishing details of the training, and
- (c) publish the content of any training materials which have been provided to Teachers in connection with the training, as soon as reasonably practicable after the training has been held.

G4.5 An awarding organisation must take all reasonable steps to ensure that no person connected to it, or previously connected to it, offers to disclose information about any assessment or the content of any assessment materials where that information is (or is said or implied to be) confidential.

G4.6 Where any breach of such confidentiality (including through the loss or theft of confidential assessment materials) is either suspected by an awarding organisation or alleged by any other person and where there are reasonable grounds for that suspicion or allegation, the awarding organisation must:

- (a) investigate that breach,
- (b) ensure that such an investigation is carried out rigorously, effectively, and by persons of appropriate competence who have no personal interest in its outcome, and
- (c) so far as possible, establish whether or not a breach of such confidentiality has occurred.

## **Condition G5      Registration of Learners**

**G5.1** An awarding organisation must take all reasonable steps to ensure that –

- (a) each Learner taking a qualification which the awarding organisation makes available is registered in a way that permits the Learner to be clearly and uniquely identified, and
- (b) where the identity of a Learner has not previously been confirmed to the awarding organisation, or the Centre at which the assessment will take place, arrangements are in place to confirm the Learner's identity.

## **Condition G6      Arrangements for Reasonable Adjustments**

- G6.1 For the purposes of this condition, Reasonable Adjustments are adjustments made to an assessment for a qualification so as to enable a disabled Learner to demonstrate his or her knowledge, skills and understanding to the levels of attainment required by the specification for that qualification.
- G6.2 An awarding organisation must, in accordance with Equalities Law, have in place clear arrangements for making Reasonable Adjustments in relation to qualifications which it makes available.
- G6.3 An awarding organisation must publish details of its arrangements for making Reasonable Adjustments, which must include details as to –
- (a) how a Learner qualifies for a Reasonable Adjustment, and
  - (b) what Reasonable Adjustment will be made.

## **Condition G7      Arrangements for Special Consideration**

G7.1 For the purposes of this condition, Special Consideration is consideration to be given to a Learner who has temporarily experienced –

- (a) an illness or injury, or
- (b) some other event outside of the Learner's control,

which has had, or is reasonably likely to have had, a material effect on that Learner's ability to take an assessment or demonstrate his or her level of attainment in an assessment.

G7.2 An awarding organisation must have in place clear arrangements for Special Consideration to be given to Learners in relation to qualifications which it makes available.

G7.3 An awarding organisation must publish details of its arrangements for giving Special Consideration, which must include details as to –

- (a) how a Learner qualifies for Special Consideration, and
- (b) what Special Consideration will be given.

**Condition G8      Completion of the assessment under the required conditions**

- G8.1 An awarding organisation must take all reasonable steps to ensure that, in relation to qualifications which it makes available –
- (a) evidence generated by a Learner in an assessment is generated by that Learner (or includes evidence generated by that Learner as a contribution to group work), and
  - (b) where an assessment is required to be completed under specified conditions, Learners complete the assessment under those conditions (other than where any Reasonable Adjustments or Special Consideration require alternative conditions).

## **Condition G9      Delivering the assessment**

- G9.1 An awarding organisation must ensure that every assessment for a qualification that it makes available is delivered effectively and efficiently.
- G9.2 An awarding organisation must ensure that, on delivery of every assessment for a qualification that it makes available, the assessment:
- (a) is fit for purpose,
  - (b) permits Reasonable Adjustments to be made, while minimising the need for them,
  - (c) allows each Learner to generate evidence which can be authenticated,
  - (d) allows each specified level of attainment detailed in the specification to be reached by a Learner who has attained the required level of knowledge, skills and understanding, and
  - (e) allows Assessors to be able to differentiate accurately and consistently between a range of attainments by Learners.
- G9.3 An awarding organisation must ensure that, on delivery of every assessment for a qualification that it makes available, the content of the assessment:
- (a) is fit for purpose,
  - (b) is appropriate for the method of assessment chosen, and
  - (c) is consistent with the specification for that qualification.

## **Section H      From marking to issuing results**

### **Condition H1      Marking the assessment**

#### **Marking**

H1.1 For each qualification which it makes available, an awarding organisation must have in place effective arrangements to ensure that, as far as possible, the criteria against which Learners' performance will be differentiated are –

- (a) understood by Assessors and accurately applied, and
- (b) applied consistently by Assessors, regardless of the identity of the Assessor, Learner or Centre.

#### **Marking options**

H1.2 Where –

- (a) an awarding organisation offers an option as to tasks which may be completed by a Learner in an assessment or as to assessments which may be completed by the Learner (including units),
- (b) the awarding organisation reasonably concludes that there is a material inconsistency between the Level of Demand of two optional tasks or assessments, and

(c) it is likely that the inconsistency will prejudice a group of Learners,

the awarding organisation must make a reasonable alteration to the criteria against which Learners' performance will be differentiated for the optional task or assessment so as to prevent that prejudice from occurring.

H1.3 Where such a reasonable alteration is made for an optional task or assessment, an awarding organisation must ensure that the alteration is applied uniformly in the marking of every task or assessment in relation to which a Learner has taken that option.

## **Condition H2      Moderation where an assessment is marked by a Centre**

- H2.1 Where evidence generated by a Learner in an assessment for a qualification made available by an awarding organisation is marked by a Centre, the awarding organisation must have in place clear and effective arrangements to undertake Moderation of the assessment.
- H2.2 An awarding organisation must ensure that any such Moderation which it undertakes allows it effectively to determine whether or not –
- (a) the assessment remains fit for purpose, and
  - (b) the criteria against which Learners' performance is differentiated are being applied accurately and consistently by Assessors in different Centres, regardless of the identity of the Assessor, Learner, or Centre.
- H2.3 An awarding organisation must –
- (a) ensure that any such Moderation which it undertakes ensures that it is able to make any necessary changes to a Centre's marking of evidence generated by a Learner in an assessment, and
  - (b) make such a change wherever it considers it necessary in order to ensure that the assessment remains fit for purpose or that the criteria against which Learners' performance is differentiated are being applied accurately and consistently.



**Condition H3      Monitoring the specified levels of attainment for a qualification**

H3.1 Before setting a specified level of attainment for a qualification which it makes available, an awarding organisation must review the specified levels of attainment set for –

- (a) the qualification previously,
- (b) similar qualifications it makes available, and
- (c) similar qualifications made available by other awarding organisations,

and must use the results of this monitoring to ensure that the specified level of attainment it sets for the qualification will promote consistency in measuring the levels of attainment of Learners over time and between similar qualifications.

**Condition H4      Adjudication by Ofqual of specified levels of attainment for a qualification**

**H4.1   Where –**

- (a) an awarding organisation makes available a qualification,
- (b) at least one other awarding organisation makes available a qualification which is viewed by the generality of Users of qualifications as being a direct equivalent to that qualification,
- (c) each awarding organisation sets the specified level or levels of attainment for the equivalent qualification that they respectively make available,
- (d) Ofqual considers that a specified level of attainment set by an awarding organisation prevents the equivalent qualifications from indicating a consistent level of attainment (including, where Ofqual considers appropriate, over time), and
- (e) Ofqual specifies to an awarding organisation, in writing, requirements in relation to a specified level of attainment for the qualification which it makes available (either for a particular assessment cycle or during a particular time period),

any awarding organisation to which Ofqual has specified such requirements must ensure that, before the qualification is awarded for that assessment cycle or during that time period, the specified level of attainment for the qualification complies with those requirements.

**Condition H5      Results for a qualification must be based on sufficient evidence**

- H5.1 An awarding organisation must ensure that the result of each assessment taken by a Learner in relation to a qualification which the awarding organisation makes available reflects the level of attainment demonstrated by that Learner in the assessment.
- H5.2 An awarding organisation must ensure that –
- (a) the marking of an assessment in relation to, and
  - (b) the awarding of;
- a qualification which it makes available takes into account all admissible evidence generated by a Learner as part of that assessment.
- H5.3 Where an awarding organisation sets a rule as to the quantity or type of evidence generated by Learners which will be admissible in an assessment, it must ensure that –
- (a) the assessment makes the rule clear, and
  - (b) the rule is applied to all Learners taking the assessment (other than where any Reasonable Adjustments or Special Consideration require it to be altered).
- H5.4 Where an awarding organisation sets a rule as to how the final mark for a qualification will be calculated from marks for different assessments, it must ensure that –
- (a) the qualification makes the rule clear, and
  - (b) the rule is applied to all Learners taking the qualification (other than where any Reasonable Adjustments or Special Consideration require it to be altered).

## **Condition H6      Issuing results**

H6.1 An awarding organisation must, in relation to any qualification which it makes available –

- (a) issue results for all units and qualifications,
- (b) publish expected dates or timescales for the issue of those results,
- (c) issue results which are clear and readily capable of being understood by Users of qualifications,
- (d) issue results which accurately and completely reflect the marking of assessments (including the outcome of any Moderation and other quality assurance process),
- (e) ensure that the issue of results is timely, and
- (f) take all reasonable steps to meet any date or timescale it has published for the issue of results.

## **Section I      Appeals and certificates**

### **Condition I1      Appeals process**

- I1.1 An awarding organisation must establish, maintain and comply with an appeals process in relation to all qualifications which it makes available, which must provide for the appeal of –
- (a) the results of assessments,
  - (b) decisions regarding Reasonable Adjustments and Special Consideration, and
  - (c) decisions relating to any action to be taken against a Learner or a Centre following an investigation into malpractice or maladministration.
- I1.2 For these purposes, the appeals process must provide for –
- (a) the effective appeal of results on the basis that the awarding organisation did not apply procedures consistently or that procedures were not followed properly and fairly,
  - (b) all appeal decisions to be taken by individuals who have no personal interest in the decision being appealed,
  - (c) all appeal decisions to involve at least one decision maker who is not an employee of the awarding organisation, an Assessor working for it, or otherwise connected to it,
  - (d) appeal decisions to be only taken by persons who have appropriate competence, and
  - (e) timelines for the outcome of appeals.
- I1.3 An awarding organisation must publish information on its appeals process to enable the results of assessments to be appealed.
- I1.4 Where the application of an appeals process in the case of a Learner leads an awarding organisation to discover a failure in its assessment process, it must take all reasonable steps to –
- (a) identify any other Learner who has been affected by the failure,
  - (b) correct or, where it cannot be corrected, mitigate as far as possible the effect of the failure, and
  - (c) ensure that the failure does not recur in the future.

**Condition I2      Compliance with Ofqual's appeals and complaints process**

- I2.1 An awarding organisation must comply with the requirements of any appeals and complaints process established by Ofqual in the form in which it may be published by Ofqual and revised from time to time.
- I2.2 An awarding organisation must give due regard to the outcome of any such appeals or complaints process in relation to a qualification which it makes available.
- I2.3 Where the application of any such appeals or complaints process in the case of a Learner leads an awarding organisation to discover a failure in its assessment process, it must take all reasonable steps to –
  - (a) identify any other Learner who has been affected by that failure,
  - (b) correct or, where it cannot be corrected, mitigate as far as possible the effect of the failure, and
  - (c) ensure that the failure does not recur in the future.
- I2.4 Where Ofqual notifies an awarding organisation of failures that have been discovered in the assessment process of another awarding organisation, the awarding organisation must review whether or not a similar failure could affect its own assessment process.
- I2.5 Where, following a review, the awarding organisation identifies such a potential failure, it must take the same action as if a failure has been discovered in relation to it by virtue of the application of Ofqual's appeals and complaints process.

## **Condition I3      The design and content of certificates**

### **The design of certificates**

- I3.1 An awarding organisation must ensure that the design of each certificate in relation to a qualification which it makes available complies with the Certificate Requirements which may be published by Ofqual and revised from time to time.

### **The content of certificates**

- I3.2 An awarding organisation must ensure that –
- (a) all certificates which it issues clearly and uniquely identify both the Learner and the certificate itself,
  - (b) all certificates which it issues clearly display the title of the qualification as it appears on the Register (and any Endorsement known after the qualification is submitted to the Register) and do not include any other title for the qualification.
- I3.3 Where an awarding organisation issues any replacement certificate, it must ensure that the certificate is clearly identifiable as being a replacement.
- I3.4 Where an awarding organisation issues a certificate in relation to a qualification and –
- (a) the assessment of the qualification was in a language other than English (when it took place in England or Northern Ireland) or Irish (when it took place in Northern Ireland), and
  - (b) the objective of the qualification was not for the Learner to gain skills in, or knowledge or understanding of that language,
- the awarding organisation must ensure that the language of the assessment is clearly identifiable on the certificate.

## **Condition I4      Issuing certificates and replacement certificates**

- I4.1 An awarding organisation must, in relation to qualifications which it makes available –
- (a) publish the expected dates or timescales for the issue of certificates,
  - (b) ensure that the issue of certificates is timely,
  - (c) issue only certificates which are clear and readily capable of being understood by Users of qualifications,
  - (d) issue only certificates which are accurate and complete and which reflect accurate and complete results,
  - (e) maintain a record of all certificates and replacement certificates which it issues, and
  - (f) not include a qualification which is not a regulated qualification on a certificate which contains regulated qualifications.
- I4.2 An awarding organisation must take all reasonable steps, including having procedures in place, to ensure that it –
- (a) issues a certificate and any replacement certificate to any Learner who has a valid entitlement to that certificate or replacement certificate,
  - (b) does not issue any certificate to a Learner who does not have a valid entitlement to that certificate,
  - (c) revokes any certificate if the result on the certificate is false because of malpractice, maladministration, or is revealed to be inaccurate as a consequence of an appeals process, and
  - (d) meets any date or timescale published by it in respect of the issue of certificates and replacement certificates.



## **Section J Interpretation and definitions**

### **Condition J1 Interpretation and definitions**

#### **Interpretation**

J1.1 In these conditions, the following rules of interpretation shall apply.

J1.2 Unless the context suggests otherwise, in these conditions –

- (a) words in the masculine gender are to be read as including the feminine gender (and vice versa),
- (b) words in the singular are to be read as including the plural (and vice versa),
- (c) references to 'it' are to be read as including references to 'he' and 'she' (and vice versa),
- (d) the words 'including' and 'in particular' indicate a list of examples and should not be read as limiting the scope of the words that occur before them,
- (e) references to 'person' include any body of persons, whether corporate or unincorporate,
- (f) 'awarding organisation' refers to an organisation which is recognised in accordance with section 132 of the Act,
- (g) 'relevant qualification' refers to any qualification for which the relevant awarding organisation is recognised or which falls within a description of qualifications for which it is recognised,
- (h) references to providing something 'in writing' are to include providing it by hand, post, fax, electronic mail or through a submission to RITS,
- (i) a 'qualification' means a regulated qualification (and includes any units of that qualification),
- (j) references to an Act of Parliament include any secondary legislation made under that Act of Parliament, and
- (k) words have the same meaning as in Part 7 of the Act.

J1.3 If there is an inconsistency between a provision in these conditions, and a provision contained in any document which is referenced in these conditions,

these conditions shall prevail and the other document shall have no force and effect to the extent of that inconsistency.

- J1.4 Titles and headings in these conditions are for information only and are not to be used for the purposes of interpretation.
- J1.5 A person is connected to an awarding organisation if that person undertakes or is involved in any activity undertaken by the awarding organisation.
- J1.6 Completion of a qualification by a Learner shall include the completion of any appeals process.
- J1.7 Where an awarding organisation is required to publish a document or information, that document or information must be published in a way which is –
- (a) clear to its intended audience,
  - (b) accurate, and
  - (c) reasonably accessible (including by way of publication, if available, on the awarding organisation's website).

## **Definitions**

- J1.8 In these conditions, the following words shall have the meaning given to them below (and cognate expressions should be construed accordingly) –

### **the Act**

The Apprenticeships, Skills, Children and Learning Act 2009.

### **Adverse Effect**

An act, omission, event, incident, or circumstance has an Adverse Effect if it –

- (a) gives rise to prejudice to Learners or potential Learners, or
- (b) adversely affects –
  - (i) the ability of the awarding organisation to undertake the development, delivery or award of qualifications in accordance with its Conditions of Recognition,
  - (ii) the standards of qualifications which the awarding organisation makes available or proposes to make available, or
  - (iii) public confidence in qualifications.

## **Assessor**

A person who undertakes marking or the review of marking. This involves using a particular set of criteria to make judgements as to the level of attainment a Learner has demonstrated in an assessment.

## **Authentication**

A process under which evidence generated by a Learner in an assessment is confirmed as having been generated by that Learner (or identified and confirmed as being that Learner's contribution to group work) and as being generated under the required conditions.

## **Centre**

An organisation undertaking the delivery of an assessment (and potentially other activities) to Learners on behalf of an awarding organisation. Centres are typically educational institutions, training providers, or employers.

## **Characteristic**

Age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation in England and age, disability, marital status, racial group, religious belief, sex, sexual orientation, political opinion, and persons with and without dependants in Northern Ireland.

## **Certificate Requirements**

One or more documents of that title or with a title containing those words.

## **Comparability**

Generating assessment outcomes that are comparable in standards between assessments within a qualification, between similar qualifications, with other awarding organisations, and over time. Where an assessment has equivalent forms then it is important to ensure comparability of outcomes. There are two reasons for this –

- (a) To reach fair comparisons about the attainment of Learners: It is impossible to produce different forms with exactly the same content and statistical specifications (such as the level of difficulty or demand on the Learner). Therefore, a requirement to ensure comparability of outcomes makes sure the level of difficulty or demand of the test forms is taken into account when setting standards so that Learners taking the different forms can be compared fairly, and

- (b) To ensure that the outcomes can be used as a measure of standards:  
Outcomes from different forms of the same test must be comparable if they are to be used to measure standards over time. Both expert judgements and statistical procedures such as test equating can be used to ensure comparability of outcomes from different forms of the same test. It is, however, important to ensure that assessments are not so similar that they become predictable, as this would be a threat to Validity.

### **Competition Law**

The Competition Act 1998, or any legislation in a jurisdiction other than England which has an equivalent purpose and effect.

### **Conditions of Recognition**

All conditions to which an awarding organisation's recognition is subject (including other conditions imposed under section 132(3)(d) of the Act).

### **Data Protection Law**

The Data Protection Act 1998, or any legislation in a jurisdiction other than England which has an equivalent purpose and effect.

### **Endorsement**

A reference in the title of a qualification acknowledging that the Learner is focusing or has focused on one or more particular areas of knowledge, skills and understanding which form part of the qualification (as encompassed in the qualification title). (For instance, in GCSE Art and Design – Textile Design, Textile Design is an Endorsement of GCSE Art and Design.)

### **Equalities Law**

The Equality Act 2010, any Act that was a statutory predecessor to that Act, or any legislation in a jurisdiction other than England which has an equivalent purpose and effect.

### **Governing Body**

Where the awarding organisation is a limited company, the board of directors of the awarding organisation. Where the awarding organisation is not a limited company, a person or group of people having the equivalent status within the organisational structure of the awarding organisation.

## **Group**

Where an awarding organisation is a limited company, a group made up of any company which is a holding company of the awarding organisation, a subsidiary of the awarding organisation or a subsidiary of a holding company of the awarding organisation. Where an awarding organisation is not a limited company, a person or group of people having the equivalent status.

## **Learner**

A person who is registered to take a qualification and to be assessed as part of that qualification.

## **Level of Demand**

The degree of challenge that an assessment presents for the Learner.

## **Logo Requirements**

One or more documents of that title or with a title containing those words.

## **Manageability**

Manageability relates to the feasibility of carrying out particular assessment processes. A Manageable assessment process is one which places reasonable demands on Centres and Learners. The evaluation of the reasonableness of the demands will be based on the scale of the assessment process on the participants, balanced by the usefulness of the outcomes. As with the other requirements (Validity, Reliability, Comparability and Minimising Bias), judgements about Manageability must be balanced with considerations around the other requirements.

## **Minimising Bias**

Minimising Bias is about ensuring that an assessment does not produce unreasonably adverse outcomes for Learners who share a common attribute. The Minimisation of Bias is related to fairness to all Learners and is also closely related to statutory equality duties.

## **Moderation**

The process through which the marking of assessments by Centres is monitored to make sure it meets required standards and through which adjustments to results are made, where required, to ensure that results are based on the required standard. This includes verification.

## **Ofqual's Logo**

Any logo, design or style in which Ofqual holds intellectual property rights.

## **Reasonable Adjustment**

An adjustment of the type that is defined in Condition G6.

## **Register**

The register published and maintained by Ofqual in accordance with section 148 of the Act.

## **Regulatory Document**

A regulatory document, or part of a regulatory document, which features in a document entitled the 'Regulatory Document List', which may be published by Ofqual and may be varied and replaced by Ofqual from time to time.

## **Reliability**

Reliability is about consistency and so concerns the extent to which the various stages in the assessment process generate outcomes which would be replicated were the assessment repeated. Reliability is a necessary condition of Validity, as it is not possible to demonstrate the Validity of an assessment process which is not Reliable. The Reliability of an assessment is affected by a range of factors such as the sampling of assessment tasks and inconsistency in marking by human Assessors.

## **RITS**

The Regulatory Information Technology System, which is a system provided for awarding organisations by Ofqual, as it may be varied and replaced from time to time.

## **Rule of Combination**

A rule specifying the combination of units which may be taken to form a particular qualification, any units which must be taken and any related requirements.

## **Senior Officer**

A director or senior executive officer of the awarding organisation or, where the awarding organisation is not a limited company, a person holding a position of equivalent status within the organisational structure of the awarding organisation.

## **Special Consideration**

Special consideration of a type that is defined in Condition G7.

## **Stimulus Materials**

Materials provided to the Learner before or at the time of the assessment which facilitate the Learner's demonstration of his or her knowledge, skills and understanding. Tasks in an assessment may relate directly to the materials and a Learner may make direct reference to the materials in completing the assessment. Such materials may include, for example, charts, diagrams, pictures, quotations or machinery.

## **Teacher**

A person who prepares any Learner, or any person likely to become a Learner, for assessment for a qualification and who does so:

- (a) as a lecturer, supervisor, tutor or other appropriate provider of education or training, or
- (b) in circumstances in which that preparation takes place primarily at home.

## **Users of qualifications**

Persons who have a legitimate interest in the qualification or type of qualification made available by the awarding organisation, which may include –

- (a) Learners and Learners' representatives,
- (b) Centres,
- (c) Teachers,
- (d) employers and employers' representatives,
- (e) further and higher education establishments,
- (f) schools,
- (g) government departments and agencies, and
- (h) professional bodies.

## **Validity**

The extent to which evidence and theory support the interpretation that the assessment outcomes meet their intended uses.

The evaluation of Validity involves the development of a clear argument to support the proposed interpretation of the outcomes and as a consequence the intended uses of the assessment. The Validity argument should be built on statements of the proposed interpretation and supporting evidence collected from all stages of the assessment process.

**Workforce**

Persons available for work (including employees, workers and contractors).



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